



US Army Corps
of Engineers
Seattle District

Public Notice of Application for Permit

Regulatory Branch

Post Office Box 3755

Seattle, Washington 98124-3755

Telephone (206) 764-3495

ATTN: Randel Perry, Project Manager

Public Notice Date: December 10, 2003

Expiration Date: January 9, 2004

Reference: 200301254

Name: Nicholson Investment
Properties, Inc.

Interested parties are hereby notified that an application has been received for a Department of the Army permit in accordance with Section 404 of the Clean Water Act for certain work described below and shown on the enclosed drawings.

APPLICANT - Nicholson Investment Properties, Inc.
2333 Carillon Point
Kirkland, Washington 98033-7353
ATTN: Mr. Daniel B. Taylor
Telephone: (425) 827-7499

LOCATION - Northwest corner of Riverside Drive and Main Street at Ferndale, Washington.

WORK - Place fill in 0.48 of an acre of wetlands for commercial site development - retail store(s) and associated facilities.

PURPOSE - Provide developed space for mixed-use retail operation.

ADDITIONAL INFORMATION - A public notice was previously issued for the proposed project under reference number 200201086. The application associated with that public notice was withdrawn for project modifications.

MITIGATION - The applicant has proposed compensatory mitigation in the form of wetland creation (see Sheet 4 and 5 of 5). A wetland mitigation plan prepared by Cantrell & Associates, Inc. dated October 30, 2003, is available from the U.S. Army Corps of Engineers (Corps) upon request.

ENDANGERED SPECIES - The Endangered Species Act (ESA) of 1973, as amended, requires assessment of potential impacts to listed and proposed species. The bald eagle (*Haliaeetus leucocephalus*, threatened), Puget Sound chinook (*Oncorhynchus tshawytscha*, threatened), and Coastal/Puget Sound bull trout (*Salvelinus confluentus*, threatened) occurs in the proposed project area. After receipt of comments from this public notice, the Corps will evaluate the potential impacts to the bald eagles, chinook, and bull trout.

ESSENTIAL FISH HABITAT - The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). No EFH occurs on the project site.

If the Corps determines that the proposed action may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

CULTURAL RESOURCES - The District Engineer has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

Known historic properties occur in the vicinity of the proposed project. However, they do not occur in the permit area. The permit area has been so extensively modified by modern development that little likelihood exists for the proposed project to impinge upon an undisturbed historic property.

The District Engineer invites responses to this public notice from Federal, State, and local agencies, historical and archeological societies, Indian tribes, and other parties likely to have knowledge of or concerns with historic properties in the area.

PUBLIC HEARING - Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

EVALUATION - The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. This evaluation will include an alternatives analysis.

ADDITIONAL EVALUATION - The State of Washington is reviewing this work for consistency with the approved Washington Coastal Zone Management Program and for compliance with the applicable State and Federal water quality standards pursuant to Section 401 of the Clean Water Act.

200301254, Nicholson Investment Properties, Inc.

This proposal will be the subject of Shorelines Substantial Development Permit processed by the City of Ferndale.

COMMENT AND REVIEW PERIOD – Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to Randel.J.Perry@nws02.usace.army.mil. Conventional mail comments should be sent ATTN: Regulatory Branch. Both conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number:

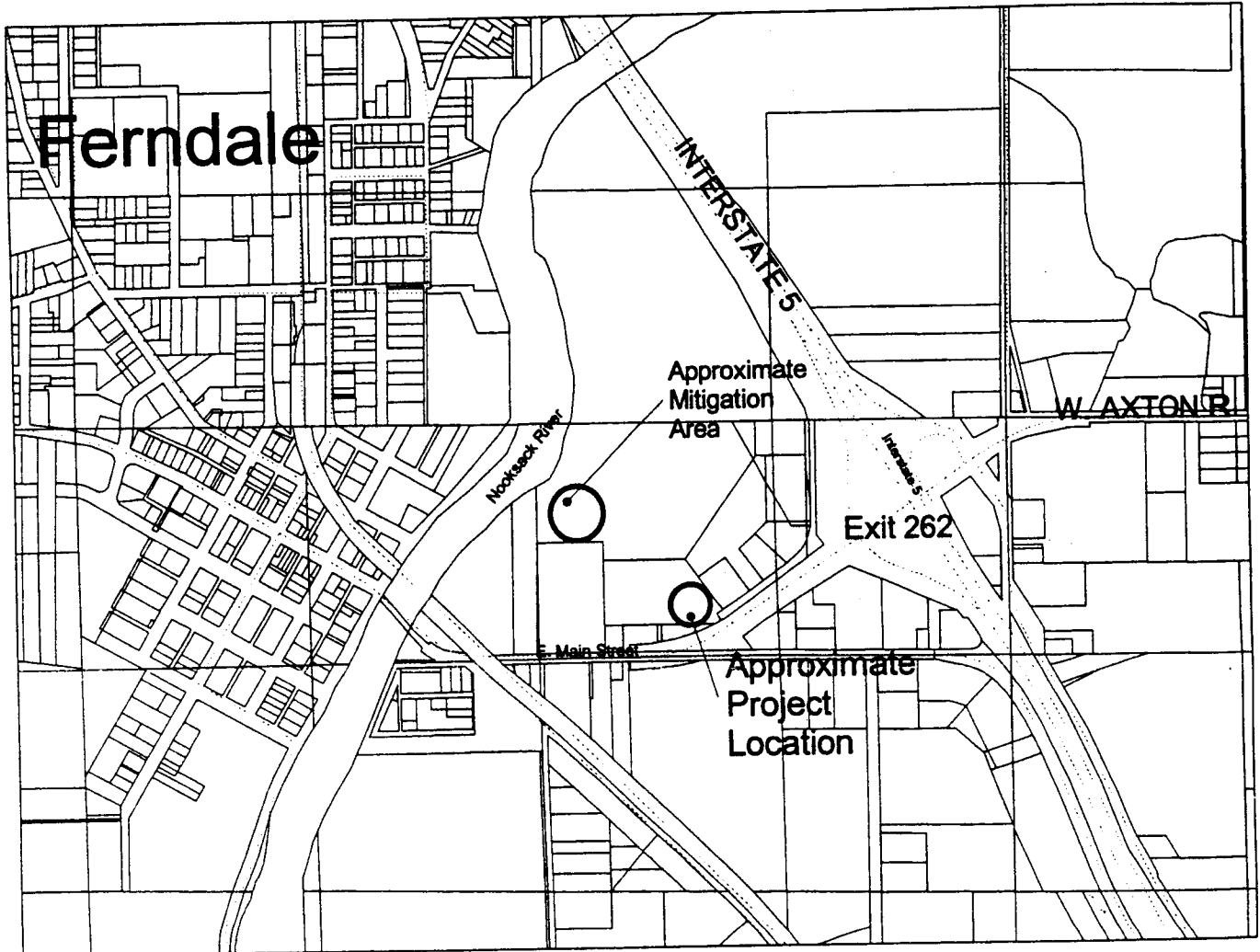

Nicholson Investment Properties, Inc.
200301254

Encl
Drawings (5)

Site Location Map

Nicholson Investment Properties, Inc.

E. Main Property, Ferndale, WA

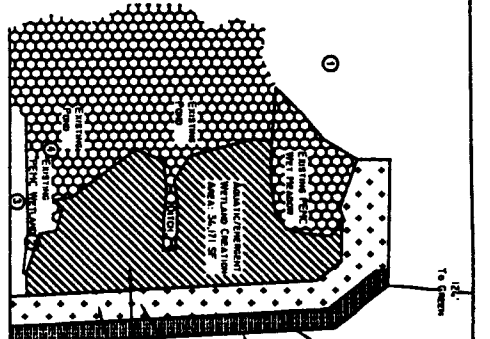


1000 0 1000 Feet
1" = 1000'

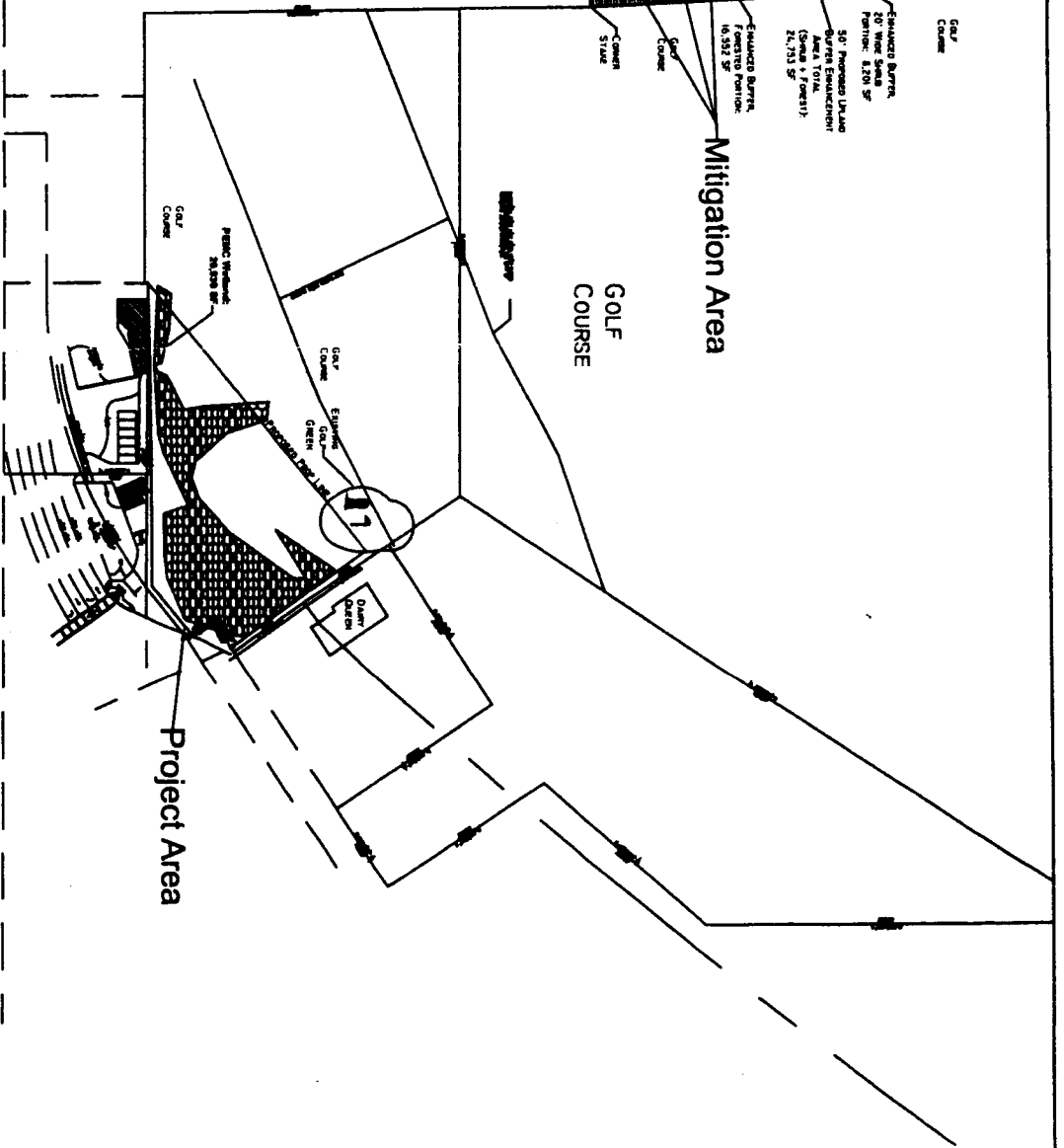
LAT: 48° 50' 43"
LONG: 122° 34' 47"
FERDALE 7.5' QUAD
NE 1/4 SEC 27, T 39N, R 2E

200301254
Wetland fill
ADJACENT TO: Nooksack River
IN: Ferndale
COUNTY: Whatcom STATE: Wa
APPLICATION BY: Nicholson Investment Properties
SHEET: 1 of 5 DATE: 10/30/03





GOLF COURSE
 Mitigation Area
 Project Area
 0 100 200
 SCALE 1" = 200'



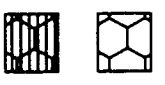
PROJECT AREA MAP

East Main Street

Project Area

GOLF COURSE

Mitigation Area



Existing Wetland
 Wetland To Be Filled
 Wetland Creation Area
 Designated Buffer Area
 0.48 AC

200301254

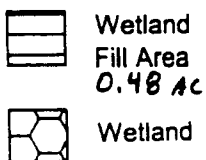
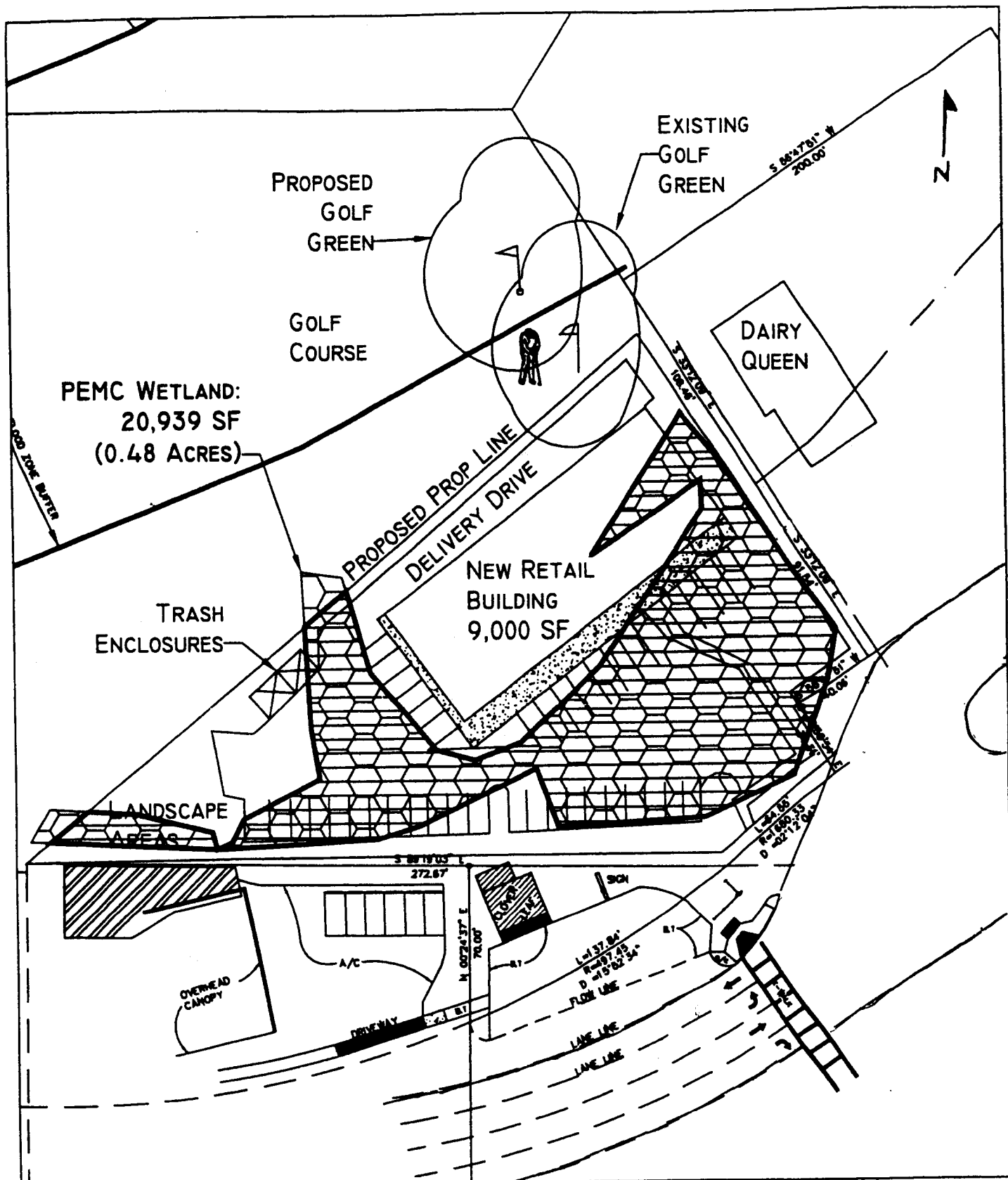
Wetland fill

ADJACENT TO: Nooksack River

COUNTY: Whatcom STATE: Wa

APPLICATION BY: Nicholson Investment Properties

SHEET: 2 of 5 DATE: 10/30/03



SITE PLAN

1" = 60'

0 20 40 60

200301254

Wetland fill

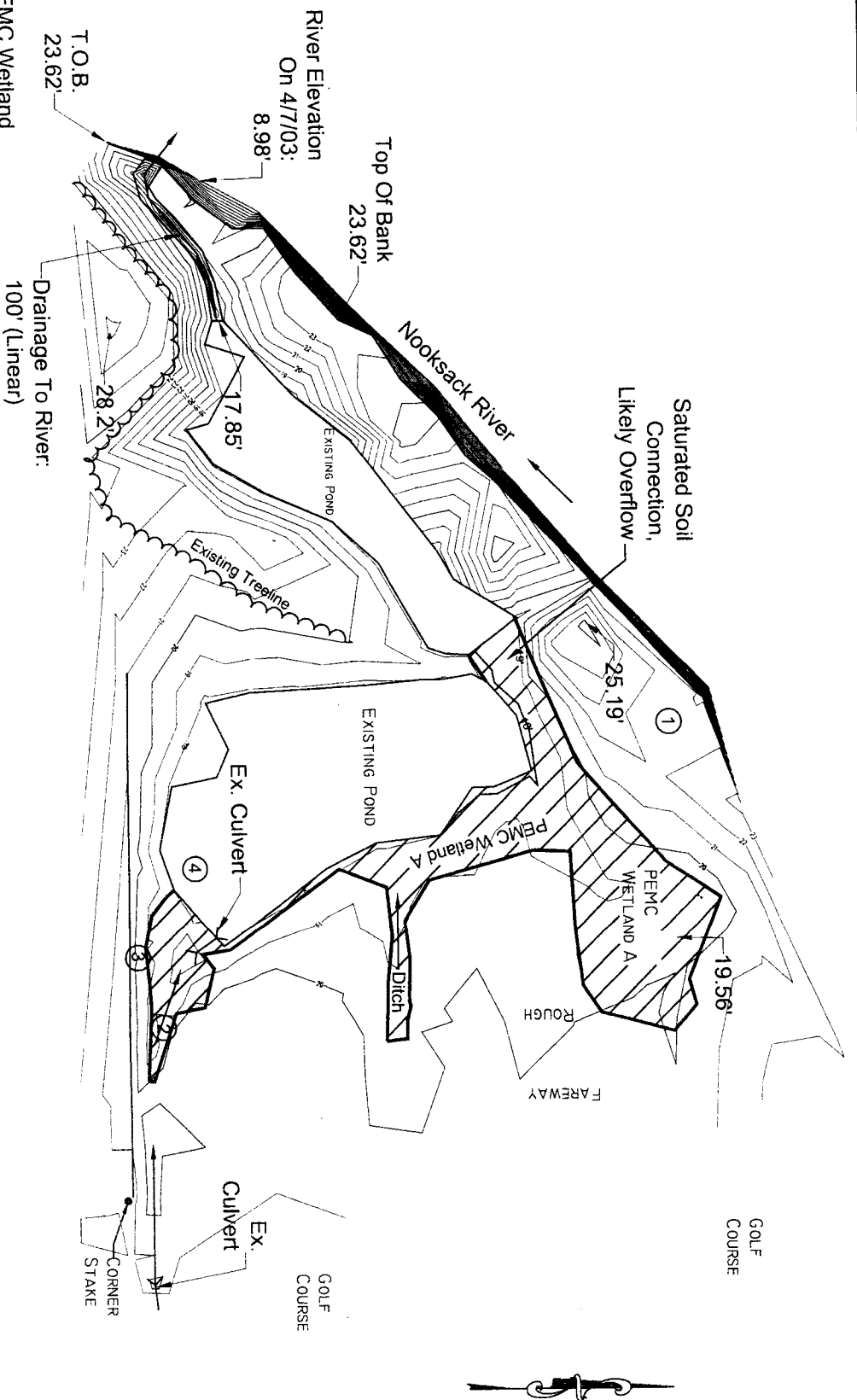
ADJACENT TO: Nooksack River



IN: Ferndale

COUNTY: Whatcom STATE: Wa

APPLICATION BY: Nicholson Investment Properties

SHEET: 3 of 5 DATE: 10/30/03



-  PEMC Wetland
 Sample Plot Location

Wetland Delineation Map, Mitigation Area

PURPOSE: To Construct Retail Store
 JOB ADDRESS: Northwest Corner, Riverside Drive and East Main Street, Ferndale, WA
 APPLICATION BY: Nicholson Investment Properties, Inc.
 MAILING ADDRESS: 2333 Carillon Point, Kirkland, WA 98033

COE Ref. # 200301254

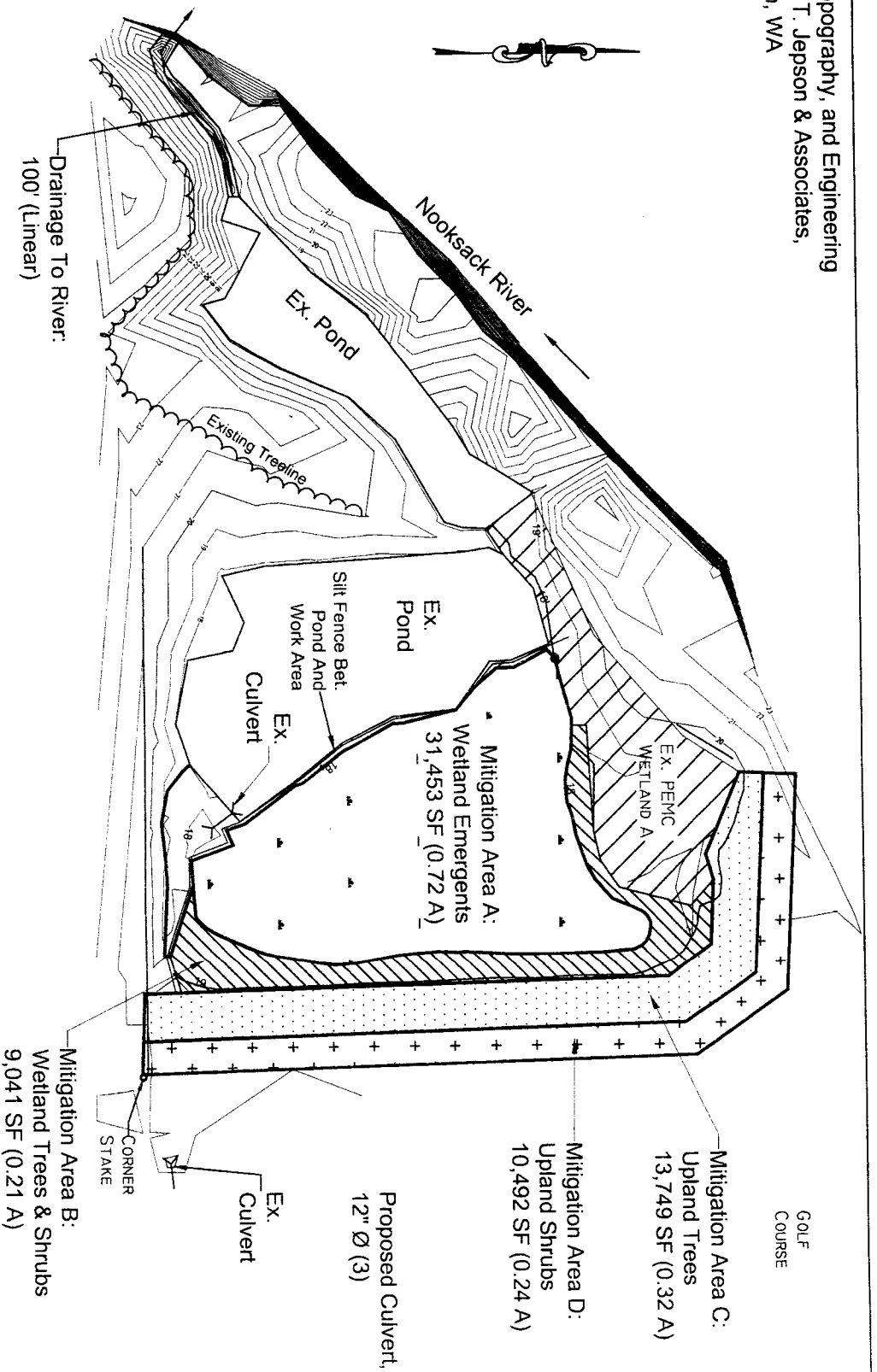
DATE: 10/30/03
 ACTION: Place fill in wetland
 IN: Nooksack River
 AT: Section 29, Township 39N, Range 2E W.M.
 DATUM: 4.61 NGVD 1929
 COUNTY: Whatcom
 STATE: Washington
 SHEET: 4 of 5

Survey, Topography, and Engineering
 By Ronald T. Jepson & Associates,
 Bellingham, WA

Scale: 1" = 100'
 0 100'
 Contour Interval 1'



Survey, Topography, and Engineering
By Ronald T. Jepson & Associates,
Bellingham, WA



Wetland Emergents



Wetland Trees & Shrubs



Upland Trees



Upland Shrubs

Wetland Mitigation Planting Plan Map

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APPLICATION BY: Nicholson Investment Properties, Inc.
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C&E Ref. # 200301254

DATE: 10/30/03
ACTION: Place fill in wetland
IN: Nooksack River
AT: Section 29, Township 39N, Range 2E W.M.
DATUM: 4, G1 NGVD 1929
COUNTY: Whatcom
STATE: Washington
SHEET: 5 of 5

Scale: 1" = 100'
0 100'
Contour Interval 1'

CAI Cantrell
& Associates, Inc.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Notice of Application for
Water Quality Certification
and for
Certification of Consistency with the
Washington Coastal Zone Management Program

Date: December 10, 2003

Notice is hereby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 401 of the federal Clean Water Act of 1977 (PL 95-217), to certify that the project described in the U.S. Army Corps of Engineers Public Notice No. 200301254 will comply with the Sections 301, 302, 303, 306, and 307 of the Act, and with applicable provisions of State and Federal water pollution control laws.

Notice is hereby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 307© of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451), to certify that the above referenced project will comply with the Washington State Coastal Zone Management Program and that the project will be conducted in a manner consistent with that program.

Any person desiring to present views on the project pertaining to the project on either or both (1) compliance with water pollution control laws or (2) the project's compliance or consistency with the Washington State Coastal Zone Management Program may do so by providing written comments within 30 days of the above publication date to:

Federal Permit Coordinator
Department of Ecology
SEA Program
Post Office Box 47600
Olympia, Washington 98504-7600